

HONOURABLE SMT.JUSTICE T.MEENA KUMARI

&

HONOURABLE JUSTICE P.LAKSHMANA REDDY

WRIT PETITION NO. 12493 OF 2004

Dated 08-09-2005

Between:

1. Government of Andhra Pradesh, represented by its Principal Secretary, Revenue (Endowments-1) Department, Secretariat, Hyderabad-22 and another.

.....Petitioners.

And:

1. P. Thippanna, in-charge Asst. Commissioner of Endowments, Guntur and another.

.....Respondents.

ORDER : (Per the Honourable Smt. Justice T.Meena Kumari)

This writ petition has been filed by the writ petitioner against the order passed in O.A. No. 2176 of 1996, dated 24-06-2003 by the learned A.,P. Administrative Tribunal Hyderabad.

The petitioners-1 and 2 and the 2nd respondent herein are respondents-1 to 3 and the 1st respondent is the applicant before the tribunal.

Originally, the applicant filed an application under section 19 of the Administrative Tribunals Act, 1985 seeking to call for the records relating to Memo No.34013/Endts I/95 dated 21-3-1996 of the 1st writ petitioner and set aside the same and consequently direct finalisation of his seniority in

accordance with the dates mentioned in Rc.No.G1 18436/89 dated 11-5-1989 of the 2nd writ petitioner and seeking direction for inclusion of his name in the panel of Assistant Commissioner for the year 1990 with consequential relief of regular promotion on the basis of the said panel with all consequential benefits. The tribunal after considering the respective pleadings on either side framed point for consideration as to whether the applicant's case can be considered for the post of Assistant Commissioner during the panel pertaining to the year 1989-90? After hearing both sides, the tribunal having observed that the seniority of the applicant has to be fixed in his place originally occupied prior to starting of the disciplinary proceedings and after fixation, his seniority has to be reckoned and taking into consideration of his eligibility, qualification and vacancies that arose from 1989-90, his case is to be considered and fixed in the cycle for promotion and basing upon that cycle, his placement as Assistant Commissioner has to be fixed ignoring all the disciplinary proceedings which were pending by that date, and that the fixation of pay is to be made after putting him in the slot as Assistant Commissioner and notional benefits should be given to him prior to the filing of the O.A. and monetary benefits should be given to him from the date of filing of this O.A. and having further observed that if he does not get promotion by the date of filing of the O.A., subsequent to the date of getting that post, he should be given the monetary benefits and after that, his pension should be revised and re-fixed, disposed of the Original application. Aggrieved by the same, the writ petitioners filed the writ petition seeking to call for the records relating to the order passed in O.A. No. 2176 of 1996 dated 24-6-2003.

Heard both sides. We have perused the material available on record.

It is submitted by the learned G.P. for services II that there was a stigma attached to the applicant due to the disciplinary proceedings as well the A.C.B. case and he was placed under suspension during the pendency of the cases. It is further submitted that though the applicant was reinstated into service on 6.2.1989 treating the entire period of suspension as on duty, he cannot claim the promotion as a matter of right and therefore, the order of the tribunal, is liable to be set aside.

When the matter has come up for hearing, it is brought to the notice of

this Court that the Department has implemented the order in respect of some of the persons who approached the Tribunal on an earlier occasion for the same relief.

We have gone through the order impugned. As could be seen from the material available on record, it appears that there was a challenge as to the seniority list not only by the applicant but also by the similarly situated persons by way of O.As. before the tribunal. The Apex Court having held that the seniority lists have not been prepared in consonance with the Presidential order, set aside the provisional seniority list as well as the final seniority list prepared up to the year 1992. In this regard, the tribunal is justified in arriving at the conclusion that the seniority of the applicant should be fixed keeping the applicant in his place originally occupied by him prior to the starting of the disciplinary proceedings.

In view of the facts and circumstances of the case and in view of the cogent reasons given by the Court below, We feel that the order of the tribunal would not warrant any interference by this Court and as such, We see no merits in this writ petition and the same is liable to be dismissed.

Accordingly, the writ petition is dismissed. No costs.

Justice T. MEENA KUMARI

Date: 8th September, 2005

Justice P. LAKSHMANA REDDY

Dvs/Gurc

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(Order delivered by the Honourable

Smt. Justice T.Meena Kumari)

Dated 08-09-2005